

IRS Fact Sheet

Criminal Investigation

www.treas.gov/irs/ci

Report suspected tax fraud - 1-800-829-0433

January 2003

Tax Fraud in the Restaurant Industry

Tax fraud investigations are the main component of the IRS' efforts to foster voluntary compliance with the tax laws. Fortunately, the vast majority of Americans voluntarily comply with their tax-filing obligations. However those who do not comply pose a serious threat to tax administration and the American economy.

In the restaurant industry, the types of criminal tax violations most frequently committed include:

- Deliberately underreporting or omitting income
- Overstating the amount of deductions
- Keeping two sets of books
- Making false entries in books and records
- Claiming personal expenses as business expenses
- Claiming false deductions
- Failing to pay over to the IRS employment taxes
- Hiding or transferring assets or income.

Restaurant Industry Statistical Information

IRS special agents have investigated and recommended to the Department of Justice for prosecution numerous individuals involved in the restaurant industry. These investigations vary from tax evasion to employment tax fraud to money laundering conspiracies. The significant jump in investigations initiated by the IRS regarding individuals (mostly owners) involved in the restaurant industry is an indication that the IRS is concerned about tax fraud in this area.

	FY 2000	FY 2001	FY 2002
Initiations*	70	73	114
Prosecution Recommendations	56	32	68
Indictments/Information Filed	71	53	42
Convictions	65	45	57
Sentenced	73	50	59
Incarceration Rate**	72.6%	84.0%	67.8%
Avg Months to Serve (w/Prison)	41	29	37

***How to Interpret Data.** Complex financial investigations may take several years to complete. As a result, a CI investigation may be initiated in one year, recommended for prosecution the next year, and convicted/acquitted in yet another year. Therefore, the data shown in cases initiated does not represent the same universe of cases shown in other actions within a given fiscal year.

**Incarceration may include prison time, halfway house, home confinement, or a combination thereof.

Case Summaries

The following case summaries are excerpts from public record documents on file in the court in the judicial district in which the cases were prosecuted.

On December 22, 2001, Jesse Albert Hernandez, owner of Tio Alberto's, a chain of Mexican restaurants in California, was sentenced to 15 months imprisonment for attempting to evade and defeat the payment of tax. He was also ordered to pay a \$4,000 fine. Mr. Hernandez pled guilty to failing to pay federal income taxes for the years 1990 and 1991 in the amount of \$52,139, as well as failing to pay federal employment taxes of \$103,012.

On March 12, 2002, Kengo I. Nozaki was sentenced in the District of Hawaii, to 2 1/2 years in prison. Nozaki filed false corporate tax returns for 1992 for Kapiolani Enterprises, Inc., doing business as Kengo's Royal Buffet and false personal income tax returns for 1993 and 1994. Nozaki was originally indicted on August 12, 1999 on three counts of filing false returns for these years. According to the evidence produced at trial, Nozaki skimmed approximately \$112,000 during 1992; \$166,000 during 1993 and \$68,000 during the first half of 1994 while he was the manager of Kengo's Royal Buffet located on Kapiolani Boulevard. These skimmed monies were not reported on Nozaki's personal tax returns or on the corporate tax return.

On August 2, 2002, in Richmond, VA, Rodney Ajluni was sentenced to 60 months in prison. Ajluni, owner and operator of Stuffy's Subs & Deli sandwich shop, failed to pay the IRS approximately \$78,000 in withholding taxes which he collected from his employees. At year-end Ajluni provided his employees with false W-2 forms with inaccurate Employer Identification Numbers. Ajluni previously pleaded guilty to evading the payment of over \$95,000 in taxes assessed against him. In the plea agreement, Ajluni admitted to the failure to pay over employment taxes.

Don't let this happen to you.

The price for making the wrong choices can include stiff penalties and fines, and possible jail time. The IRS does not want this to happen to you.

If you are interested in further information about tax fraud, visit the IRS-Criminal Investigation Web site at <http://www.treas.gov/irs/ci>. To report suspected tax fraud, call 1-800-829-0433.

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